App F IX 4

Previous References (1942-44 ML) File No 103-43

Serial Nos (& 2

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos two

Part B for August 44

SUBJECT

Granting Exemption to the family of Mr Dalava Devaraj Urs from the payment of Municipal taxes, tolls, & etroi duty levied by the Mysore city Municipality

To The DOH, City Mcl, Mysore
RRO L 12849 Dy 27-6-44
States that the request cannot be sanctioned

9 44

Letter No M&S 40-215/43 & 22-11-43 from the President, City Municipal Council, Mysore forwarding for orders of Govt an application presented by Mr Dalvoy Devaraj Urs praying for exemption from the payment of taxes, tolls & octroi levied by the said Mcpl

1 The documents produced by Mr Dalvoy Devaraj Urs in support of his claim have also been enclosed

2 When the matter was referred to the Govt Advocate by the Govt, the Govt Advocate has stated that the claim is an unsustainable one unless Govt are pleased to grant exemption under proviso (a) to section 64 of the Mysore Municipalities Act 1933

3 The Govt states that no records bearing on the subject are available in his office

4 The Law section may perhaps be consulted in the matter if the claim based on the "Nirupa" is sustainable

Submitted for orders

24/12

5 Law dept for
a Municipal dept 28/12/43
b Attorney Law dept 6-1-44

1 SEC 677 1 SOFE

L O R
No 105/43-44 11/1/44
12/1/44

7 It is submitted that the circumstances of the case have been fully discussed in the note of the Government Advocate flagged "X" He is of opinion that unless specially sanctioned by Govt, the heirs of Mr Dalvoy Devarajans will not be entitled to get any exemption from payment of tolls & taxes on motor cars and other vehicles owned by the family Because it is only produce from lands that have been exempted from payment of octroi according to the documents under which the exemption is claimed

8 The above interpretation appears to be in order A copy of the City Municipalities Act is also herewith put up for reference Copy of the Byelaws of the Shiyali City Municipality also referred to in para 3 of the P & D is not available in the Law Section

9 Submitted for orders

10 The facts are fully discussed in Flag X by the Government Advocate

11) The present case is governed by Sec 2 & Sec 64 of the City Municipal Act The exemption prayed for, has not been granted under any legal enactment which has been repealed by the Act of 1933 If it had been, it would have been valid only under Sec 2 further, Sec 64 Proviso (b) (i) & (ii), (c) read with Sec 81 of the Municipal Act

12) Hence the exemption prayed for

WD 01809—GPB—60 000—26 1 43

SEC L & DEPT 1944 GOVT OF MYSORE

case as per proceedings under 64(d) of the Act

Law Secretary) 3/1/44

13) The Municipality has an order issued to the Tahsildar authorising them to levy tolls on grains and cloth belonging to the Dalavai family as may be constituted to be in the nature of an exemption which can now be granted under § 64(d) of the City Municipalities Act. This exemption was not recognised. As an exemption was created by the Act just as in the case of property belonging to the palace of the Nizam, hence the Municipality can claim tolls unless the exemption granted under the Firman

14) However since the exemption was granted by His Highness the Maharaja of Mysore and was recognised by the Commissioner the Govt can grant exemption under § 64(d) of the Act in respect

Claiming Mr Railway Passengers for exemption from the payment of taxes, tolls & octroi

Continuation Sheet | File No / Current No | of | Page

If grains & clothes only

Circs 3 7 44

Letter 31/8/44 (L S G)

for Imperial matters

15) Send with a draft for approval & other orders

13/3/45

16) The draft is put up in accordance with the legal opinion above and is for orders

Why was this delayed from 31-7-44 to 15-3-44? Who is responsible?

Circs 20-3-44

9418

Law dept for 15 3 45

17) The question of granting exemption has the decided as is suggested in para 16

18) Orders

Circs 20 3 44 for

Madras L S G

&

Bombay

19) There cannot be any serious exemption as required, the exemption for grains and cloths may be given under Sec 64 (a) of the Act

OFFICE OF THE MINISTER FOR L S G & P H
Date 20 3 44
No 6686

22 3 44

20) Are there any instances of such exemption having been

23 3 944

5751

WD 01809—GPB—60 000—96 1 43

Exemption from [illegible]

Continuation Sheet File No Current No of 3 Pages 6688

OFFICE OF THE MINISTER FOR L S G & P H Dt 28 3 44 No 6688

given in favour of [illegible]

[illegible] 25/3/44

21 [illegible] 29 3 44

[illegible] 29-3 44

re pl enquire of [illegible] Ministry [illegible] 29 3 44

7875

23 Submitted with a draft letter for approval

KMS 30/3

24) Issued 31/3/44

To The Dch, Coop Secl, Mysore

No L 10435 Dt 5-4-44

Calls for some information

Letter No M5-40-213/43 Dt 26-4-44 from the Dch, Coop Secl, Mysore stating that there are no cases where individual exemptions were given

Submitted for perusal with reference to para 20 supra

KMS 19/5

25) 26) For orders with reference to para 20 supra stated that there are no instances where individual exemptions are given

Last day Sec 28/5/44

Section Secl

Sec A 19/4 JM

SECRETARIAT SECTION 11/5/44 24 AM 44

27) Under S-S G

D Cowan

Secl 24 3 44

28) 44 Sec 9 6 44

OFFICE OF THE MINISTER FOR L S G & P H Dt 24 5 44 No 8190

Exempting the funds of the Railway Servants
from the payment of Municipal taxes collected

Continuation Sheet | File No / Current No | of | Page

7595

6849

29) The request has to be refused as it is not founded on valid reasons by granting the claimants will get no tangible benefit and Govt will be creating an inconvenient precedent if the claim is admitted

Nil

30) 12/6/44

Cc

31) 13/6/44

Illegible 31)

for

Sec

32) 22/6/44

Cm

23/6/44

33) Draft representation

34) Telephone

SECRETARIAT 15 JUN 1944 GOVT

35) Issued with a draft letter for approval

24/6

Law secy Telephone

36)

37 Cm 24/6/44

34) Issue

Telephone

To the Deputy Chief Secretary, Mysore

No L/12849 dt 27-6-44

States that the request cannot be sanctioned

CTT

B 1/8

OFFICE OF THE I ST FD. L S G & P H

Date 14 6 44

No 8668

6849 / 1273 / C

Continuation Sheet | File No mc / Current No | 103 of 43 | Page

Letter No A4 & 948 & 16 8 44 from the Mc Comm. Ooty stating there are no instances wherein such exemption has been granted in favour of particular individuals in the case of Mcs except in the case of Brute Swaminadh & State guests as noted in the list.

39) The Odt of Mc cl. Mysore has already been intimated that the request of Mr Dalavoy Devaraj has Cannot be sanctioned

40. No action appears to be necessary on this reference This is only a reply to a reference from this office.

41) If agreed, the papers will be filed after perusal

WKS 29/8

BR 30/8

42) may be filed

30/8

No MS 40-215/43 Encl 7

SECY LAW DEPT 25 JAN 1943 GOVT OF MYSORE

OFC OF THE DN CITY MUNICIPAL COUNCIL MYSORE

Date 22nd Nov 42

REV & REV SECRETARIAT 3220 26 JAN 1943 L S G BRANCH

From

B Ramachandra Rao Bhombore, Esq, B A

PRESIDENT CITY MUNICIPAL COUNCIL
MYSORE

To

C Narayanaswamy Naidu, Esq, B A, B I,
Secretary to Government, Law Department,
Bangalore

Sir

Subject - Claim put forward by Mr Dalvoy Devaraj Urs for exemption from the payment of taxes and tolls and of Octroi duty levied by the Municipality

---

4 4 70 In forwarding herewith in original the application dated 29th April, 1940 from Mr Dalvoy Devaraj Urs requesting to exempt his family (consisting of Messrs (1) D Madan Gopalaraj Urs (2) D Sreekanta Lakshmikantharaja Urs and (3) Nanjaraja Urs) from the payment of octroi and toll in Mysor City, I have the honour to state as follows -

(2) In the above application Mr Devaraja Urs states that his family was exempted from payment of octroi and toll by the orders of His Highness Sri Krishnaraja Wadiyar III and that these orders were upheld even during the Commissioner days in support of which he has sent copies of Nirup granted by His Highness and the Commissioner and also copies of correspondence between the Sawyer Daroga and the Deputy Commissioner, Mysore District and the Sawyer Daroga and the President, Mysore City Municipality (Vide Enclosures 1, 2, 3 and 4 respectively) The contention is that the grant by His Highness is a perpetual one and the present procedure of recovering Octroi and toll is not in order He requests that the terms of the Nirup may be brought into force and that exemptions may be granted

Continuation Sheet

File No.

The exemptions allowed by the City Municipalities are contemplated in the proviso to Section 64 of the City Municipalities Act and Appendix (c) of the printed Byelaws of this Municipality and the present case is not allowable under any of those provisions I am forwarding herewith, in original, for the information of Government, the note given by the Municipal Advocate stating that under the circumstances stated therein, the claim is an unsustainable one unless Government are pleased to grant exemption under provision(d) to section 64 of the Act

(4) The copies sent by Mr Devaraj Urs are from documents relating to the year 1836 and 1873 and no records bearing on the subject are available in this office

I request orders of Govt vide matter

I have the honour to be,
Sir,
Your most obedient servant,

PRESIDENT

SNR

Mysore,
29th April 1940.

CITY OFFICE
97 8824
3/5/40

No- 37

To

The President,
Municipal Council,
MYSORE

Petitioner -

Dalvoy Devaraj Urs,
Madan Gopalaraj Urs,
Sreekanta Lakshmi Kantaraj Urs,
Nanjaraj Urs

Respected Sir,

I am one of three brothers, who belong to the well known Dalvoy Family in Mysore My two brothers, Messrs D Madan Gopalaraj Urs and D Sreekanta Lakshmi Kantaraj Urs are living in places other than Mysore, being in Government Service

For services rendered to the State our ancestors were exempted throughout the State, from payment of taxes, tolls and Octroi Duty, by order of His late Highness Sri Krishnaraja Wodeyar III The said order and exemption was recognised and upheld by the Commissioner too, so long back as in 1836 I shall produce for inspection the various Sannads and the said order No. 434 dated 21st November 1836, whenever called upon.

The Orders of His late Highness are in the nature of perpetual grants and have got to be upheld throughout the State for all time to come

I have filed this petition, as a member of the Dalvoy Family and for the benefit of my brothers also

Our family [redacted]tor cars, coaches and bullock carts,

and are in use in ysore City and outside

I respectfully pray that the cars and other conveyances may be exempted from payment of taxes and tolls within the limits of ysore City and that no octroi duty levied from us and that necessary instructions and orders be issued to the concerned departments of the unicipality

Yours sincerely,

Devaraj Urs

No 71

Enc 4

Ref 10686

29 6 40 — 12

2

ಸಾಗರ ತಾಲೂಕು ಆಡಳಿತ ಅಧಿಕಾರಿಯವರು ಈ ಪತ್ರದ ಚೀಫ್
commissioner ರವರ ಪತ್ರವನ್ನು ಕಳುಹಿಸಿಕೊಟ್ಟಿದ್ದಾರೆ -

3 ಸಾಗರ ತಾ ಆಡಳಿತಾಧಿಕಾರಿಯವರು ಮಂಜಪ್ಪ
ರವರಿಗೆ ಬರೆದ ಪತ್ರದಲ್ಲಿ ಅಂಚೆ ಮೂಲಕ ಪತ್ರ ಕಳುಹಿಸಿದ
46 ಲಿ 17 ಆ 1873 ಕ್ಕೆ ಅಂಚೆ ಕಛೇರಿ -

4 ಸಾಗರ ತಾ ಆಡಳಿತಾಧಿಕಾರಿಯವರು ಮಂಜಪ್ಪನವರಿಗೆ
ಮಂಜಪ್ಪನವರು ಪತ್ರವನ್ನು ಪಡೆದುಕೊಂಡ
57 ಲಿ 3 ಆ 1873 ಕ್ಕೆ ಸಹಿ ಮಾಡಿದ್ದಾರೆ -

ಮಂಜಪ್ಪನವರಿಗೆ ಕಳುಹಿಸಿದ ಪತ್ರವನ್ನು ಅವರು
ಓದಿ, ಪತ್ರದಲ್ಲಿ ಬರೆದಿರುವ ಅಂಶಗಳನ್ನು ಅರ್ಥಮಾಡಿಕೊಂಡು
ಪತ್ರದಲ್ಲಿ ಬರೆದಿರುವ ಅಂಶಗಳಿಗೆ ಉತ್ತರವನ್ನು ಬರೆದು
ಸಹಿ ಮಾಡಿ ಅಂಚೆ ಕಛೇರಿಯಲ್ಲಿ ಪತ್ರವನ್ನು ಕಳುಹಿಸಿದ್ದಾರೆ
ಎಂಬುದಾಗಿ ಪತ್ರದಲ್ಲಿ ಉತ್ತರವನ್ನು ಕೊಟ್ಟಿದ್ದಾರೆ
ಆ ಪತ್ರವನ್ನು ಸಾಗರ ತಾಲೂಕು ಆಡಳಿತಾಧಿಕಾರಿಯವರು
ಪಡೆದುಕೊಂಡು ಅದರಲ್ಲಿ ಬರೆದಿರುವ ಅಂಶಗಳನ್ನು ಓದಿ
ಅರ್ಥಮಾಡಿಕೊಂಡು ಅದಕ್ಕೆ ಉತ್ತರವನ್ನು ಬರೆದು ಸಹಿ
ಮಾಡಿ ಅಂಚೆ ಕಛೇರಿಯಲ್ಲಿ ಪತ್ರವನ್ನು ಕಳುಹಿಸಿದ್ದಾರೆ
ಎಂಬುದಾಗಿ ಪತ್ರದಲ್ಲಿ ಉತ್ತರವನ್ನು ಕೊಟ್ಟಿದ್ದಾರೆ

ಸಾಗರ
ತಾಲೂಕು

ಸಾಗರ
ತಾಲೂಕು

(17)

I/14

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

15

ಈ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿದ ಕಾರಣ ಮೇಲ್ಕಂಡ ಜಮೀನಿನ ಪಟ್ಟಾ ಮಾಡಿಕೊಡಲು ಆಜ್ಞೆ ಆಗಬೇಕೆಂದು ಕೋರಿಕೊಳ್ಳುತ್ತೇನೆ. ಅಲ್ಲದೆ ಈ ಜಮೀನಿನ ಸಂಬಂಧವಾಗಿ ಯಾವುದೇ ವ್ಯಾಜ್ಯ ಇರುವುದಿಲ್ಲವೆಂದು ಪ್ರಮಾಣ ಮಾಡಿಕೊಡುತ್ತೇನೆ.

21 6 1831

ಇಂತಿ ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಹೆಸರು ಸಹಿ

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(2) 4

II 16

No 434

III

5-

ಸುತ್ತಿಕೊಂಡು ತಿರುಗಿಸಲು ಪ್ರಯತ್ನಿಸಿದಂತೆಯೇ ಅವನು ಮುಂದೆ

ಬಂದನು ಅವನು ಅಂತೆ ಸುತ್ತಿಕೊಂಡು ಹಾಗೆ ಅಲ್ಲಿಂದ ಅವನು

ಆ ಹಾಗೆ ಅಂತರ ಪ್ರಯತ್ನಿಸಿದ ಸಲ ಅವನು ಅಲ್ಲಿಂದ

ಬಿದ್ದನು

ಅಲ್ಲಿ ಅವನು ಅಂತರ ಪ್ರಯತ್ನಿಸಿದ ಅವನು ಅಲ್ಲಿಂದ

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"Copy"

No 46

17 4-1873
Bangalore

Signature illegible

ಸಂಬಂಧಪಟ್ಟಂತೆ ಅಂಚೆ ಕಛೇರಿಯವರಿಗೆ ಕೊಡಬೇಕಾದ ಹಣವನ್ನು ಕೊಡಲಾಗಿದೆ ಎಂಬುದಾಗಿ ಈ ಪತ್ರದ ಮೂಲಕ ತಿಳಿಸಲಾಗಿದೆ.

ಇಂತಿ ನಿಮ್ಮ ವಿಶ್ವಾಸಿ

ಸಹಿ ——

ಈ ಪತ್ರವನ್ನು ಬರೆಯುವಾಗ ಅಂಚೆ ಕಛೇರಿಯವರಿಗೆ ಕೊಡಬೇಕಾದ ಹಣವನ್ನು ಕೊಡಲಾಗಿದೆಯೆಂಬುದಾಗಿ ಈ ಪತ್ರದ ಮೂಲಕ ತಿಳಿಸಲಾಗಿದೆ ಎಂಬುದಾಗಿ ಸಹಿ ಮಾಡಿಸಿಕೊಂಡು ಬರಬೇಕೆಂದು ಹೇಳಿ ಕಳುಹಿಸಿದ್ದರಿಂದ ಹಾಗೆ ಬರೆಯಲಾಗಿದೆ ಎಂಬುದಾಗಿ ಸಹಿ ಮಾಡಿಸಿಕೊಂಡು ಬರಬೇಕೆಂದು ಹೇಳಿ ಕಳುಹಿಸಿದ್ದರಿಂದ ಹಾಗೆ ಬರೆಯಲಾಗಿದೆ

ಸೆಕ್ಷನ್ ೪ ಆಕ್ಟ್ ೨೦ ಆಫ್ ೧೮೫೭ ಪ್ರಕಾರ ಕಲೆಕ್ಟರ್ ಅವರಿಗೆ
ಅಧಿಕಾರ ಕೊಡಲಾಗಿದೆ

ಈ ಸಂಬಂಧ ಸೆಕ್ಷನ್ ೪ ಪ್ರಕಾರ ಕಲೆಕ್ಟರ್ ಅವರಿಗೆ
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ಈ ಕೆಳಗಿನ ಅಧಿಕಾರಗಳನ್ನು ಚಲಾಯಿಸಲಾಗಿದೆ

ಸೆಕ್ಷನ್ ೪ ಆಕ್ಟ್ ೨೦ ಆಫ್ ೧೮೫೭ ಪ್ರಕಾರ ಕಲೆಕ್ಟರ್ ಅವರಿಗೆ
ಸಿಕ್ಕ ಅಧಿಕಾರಗಳು ಈ ಕೆಳಗಿನಂತಿವೆ

ಅಂಥ ಅಧಿಕಾರಗಳು ಈ ಕೆಳಗಿನಂತಿವೆ
1836ನೇ ಇಸವಿಯ 43ನೇ ನಿಯಮದ ಪ್ರಕಾರ ಕಲೆಕ್ಟರ್
ಸ್ಥಳೀಯ ವಿಚಾರಣೆಯಲ್ಲಿ ಅಂಥ ಸಾಕ್ಷಿಗಳನ್ನು
ಕರೆಸುವ ಅಧಿಕಾರ ಕೊಟ್ಟಿದೆ ಅಂಥ ಸಾಕ್ಷಿಗಳು
ಹಾಜರಾಗಲು ನಿರಾಕರಿಸಿದಲ್ಲಿ ಅವರಿಗೆ ದಂಡ
ವಿಧಿಸುವ ಅಧಿಕಾರ ಕೊಟ್ಟಿದೆ

ಅಂಥ ಕೊಟ್ಟಿರುವ ಅಧಿಕಾರಗಳಲ್ಲಿ
ಈ ಆಕ್ಟ್ ಅಲ್ಲಿ ಅಂಥ ಅಧಿಕಾರಗಳನ್ನು
ಕೊಟ್ಟಿರುವ ಅಧಿಕಾರಗಳನ್ನು ಚಲಾಯಿಸಲು
ಅಧಿಕಾರಿಗಳಿಗೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿದೆ

No 57

3-6-1873

English sign

Copy

No F 12
Encl 1 file

Office of the Municipal Advocate,
Mysore City,
Dated 23rd May 1941

Returned with compliments

The point for consideration is whether the claim put forward by Mr Dalvoy Devaraj Urs on behalf of himself and his brothers for exemption from the payment of taxes and tools and of octroi duty levied by the Municipality is sustainable The claim is based on a Nirupa dated 21-6-1831 granted by the late Krishnaraja Wadiyar III and the orders of the Commissioner dated 21-11-1836, copies whereof have been produced A perusal of the three/other copies (1) a report dated 12-4-1873 by the tax collector (2) orders thereon dated 17-4-1873 by the Deputy Commissioner and (3) Municipal President's order dated 3-6-1873 shows that the matter came up before the authorities once again and ~~the~~ was decided in favour of the exemption The subject does not, however seem to have been broached till 29-4-1940 the date of the first petition by Mr Dalvoy Devaraj Urs

The Nirupa and the Commissioner's orders referred to above state that ಜವಳಿಪನಿಸಿಳ್ಳು coming to the household of the ancestors of the petitioners should be allowed free ಸುಂಕ ಕೊಡುಕೊಳ್ಳದೆ. The orders of the Deputy Commissioner and the Municipal President also refer to ಜವನಿಸಿಳ್ಳು and say that they should be allowed ಇನಕ್ಕಾಗಿ The exemption from taxes and tolls on " cars and other conveyances " claimed by the petitioner does not appear to have any support from the title deeds relied upon and for that reason may not be considered.

The claim for exemption from octroi, however, stands on a different footing It would be valid if the Nirupa and the Commissioner's orders can be considered to grant a perpetual exemption, effective and valid in spite of the legislative enactments commencing, so far as Mysore City is concerned, from Regulation III of 1888 The first point to be decided is whether the Nirupa is a legislative measure or an executive order The Nirupa's date

is anterior to that of the Resumption communication whereof reached the Maharaja on 19-10-1831 Vide Mysore Gazetteer, Vol II Part 4, page 2878 But there does not seem to be anything in the Nirupa itself to give it the characteristics of a legislative act The preamble reads as follows - ಶ್ರೀಮಂತ ಅರಮನೆ ಶೀಮೆಗ ಡಿಕಲ್ಪ್ಟ್ ಅಮೀಲ್ ಕಿಲ್ಪ್ಟ್ ದಾಕೆ ಕೊಂಡು ಬಾಂಬಂಡಿನಿand the Nirupa purports to be an order or direction to the tax collectors that they should ಸಂಕ್ಷ್ಮ ಲಾಕೊಂಡು ಬಿಡುಕ್ಷ ಬಿಡುವ್ಯದು all the ಜವಳಿದನಕ್ಷು coming to the household of the late Dalvoy Nanjarajiah It has therefore to be stated that the Nirupa is more an executive order than a legislative measure The orders of the Commissioner are couched in like language and for the same reasons mere executive directions

Mysore City was brought under Municipal administration, as stated above, by Regulation III of 1888 promulgated on 24-10-1888 with effect from 1st of December of that year This Regulation merely extended the provisions of the Bangalore Town Municipal Regulations 1871 to Mysore City The Regulation of 1871 thus extended to Mysore City do not contain any clause saving the exemptions or rights granted by the Maharaja or the Commissioner of the type contained in the Nirupa and the Commissioner's orders in question If it were the intention of the legislature to recognise and save such exemptions nothing would have been easier than to state so in the very first enactment bringing Mysore City under statutory municipal administration In the subsequent Acts (Regulation VII of 1906 and Regulation VII of 1933) also there is no provision either of recognising or of saving such exemptions When a statute confers on a body created by it the power to tax it mentions its limitations also It defines the taxing powers and in cases where it intends to exempt any particular items of property or classes of person from taxation it specifically mentions the restriction of the power to tax in that behalf But for such an exemption, it is

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is settled law that even the Crown is not exempt from municipal taxation (Vide P Duraiswami Aiyangar's Law of Municipal Corporations, page 282) When the Crown itself does not possess a right of exemption it is difficult to see how it would grant exemption to others The provisions of Sec 64 of the Municipal Act contain a number of provisos by which Government and the Sovereign's properties are placed beyond the reach of the municipal council's power to tax In the absence of any mention of any exemption in favour of the family in question in that or any other section and the non-mention of the saving of any grant of exemption of the type under consideration in the first legislative enactment it has to be stated that the exemption claimed does not exist In the words of an American Judge " taxation is the rule with every presumption to support it while exemption is the exception with every presumption against it " Any claim, for exemption should have an unequivocal statutory provision to found it in order to prevail and has to be rejected when no such basis exists

Mention may be made here that a claim for exemption under the authority of a Sannad granted by Krishnaraja Wadiyar Bahadur III formed the subject of dispute and decision in O S 4 of 37-38 on the file of the First Munsiff Mysore In this suit Mr N Krishnaswami Rao sought for a declaration that the maliges attached to the Rai Bahadur Bakshi Narasappa's Temple and Chattram Buildings in Sivarampet, Mysore, were entitled to be exempted from municipal taxation and an injunction restraining the Municipality from taxing them The suit was decreed and an appeal preferred by the Municipality has been dismissed The matter is now before the High Court in a Second Appeal preferred by the Municipality One of the stands taken by the Municipality in that suit was the one presented in the preceding paragraphs of this note This did

did not however commend itself to the trial Court It would be desirable to notice here one of the arguments that found favour with the learned Munsiff in arriving at his conclusion in that suit According to him the state itself could not over-ride any rights (for exemptions and the like) conferred by Sannads and Nirupas and seek to either expressly or impliedly revoke them by subsequent legislation With great respect this view does not seem to have any warrant The legislature has full and sovereign power to annul all old rights and to create new rights and obligations This power of the legislature is too long and well recognised to be doubted or questioned It can certainly preserve a right existing at the time of passing a statute if it so desires But it has to do so by an express provision in the statute it enacts If it does not save them in the above manner it cannot be said that the rights ante enactment survive and continue The learned Munsiff's argument could have had force if the enactment is by a legislature whose rights and power are conferred and defined by a superior legislature e g the legislatures created under the Government of India Act These have not been given the power to pass legislation affecting the authority of the Parliament In so far as any Act of the subordinate Indian Legislatures goes beyond the powers conferred on them and seeks to affect the powers of the Parliament the Act would be ultra vires But no such subordination is found in respect of the relationship between the Mysore Legislature and the Mysore Sovereign concerning the powers of the former touching any question of the type under consideration It cannot therefore be stated that the Municipal Regulations in so far as they take away or annul the rights, if any, granted to any person by the Sovereign are ultra vires of the Mysore

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Mysore Legislature

Under these circumstances it has to be stated that unless the Government by virtue of the powers conferred on them by proviso (d) to Section 64 of the Act, grant the exemption prayed for by the petitioners, the claim is an unsustainable one

S Chinnaswamy Setty

Municipal Advocate

Appendix F G —1]

SUBJECT

26

Section ML

File No

Serial No

Diary No of letter replied to

No L/10435

To

The Addl, Asst ml cl, Mysore

Sir,

With reference to your letter no M5-40-215/43 & 22nd Novr 1943 in the matter of granting exemption to the family of Mr Dalvoy Devaraj urs from the payment of taxes & tolls & protection duty, levied by the city Municipality, I am directed to request you to be so good as to state whether there are any instances of such exemption having been given in-

General and Revenue Secretariat

( )

the *194*

Date of issue 5/4

Signed by Mr C P Rao

List of enclosures

Copied by

Examined by

WD 04161—GPB—60 00)—24 10 41

favour of Particular individuals
An early reply is requested

I have etc
sgn
Dor secy to Govt
Wks Law Deptt
30/3

Memo no L 10436 Dy 5/4
Copy of the above is forwarded with
Compliments to the Secy Comm, Bcig,
this with the Odt with a request that similar
information, if any, in the Bcig
Secy may be kindly furnished
A Copy of the letter no Wks-40-215/43
Dy 22-11-43 received from the Odt,
Offg Secy, Bhyder, in this behalf is also
sent herewith for information.

By order
sgn
Dor secy to Govt
Wks Law Deptt
30/3

OFFICE OF THE PRESIDENT
CITY MUNICIPAL COUNCIL MYSORE

No M5-40-216/43
Encl

Date 26th April 1944

From

R RAMACHANDRA RAO BHOMBORE, Esq B A
PRESIDENT, CITY MUNICIPAL COUNCIL
MYSORE

LEGY LAW DEPT
2 APR 1944
GOVT OF MYSORE

GEN & REV SECRETARIAT
6849
1 MAY 1944
L S G BRANCH

To

C Narayanaswamy Naidu, Esq , ~~B.A.,~~B L ,
Secretary to Government, Law Department,
Bangalore

Sir,

Subject - Granting exemption to the family of Mr Dalvoy Devaraj Urs from the payment of Municipal taxes,Tolls and Octroi duty levied by the Mysore City Municipality

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With reference to your letter No L 10435/M1 dated the 5th April 1944 regarding the above, I have the honour to state that there are no instances where individual exemptions were given, other than those contemplated in Appendix (c) of the printed Rules and Byelaws of this Municipality

I have the honour to be,
Sir,
Your most obedient servant,

PRESIDENT

SNR/-

To L12849 Ml 103-432 0927/6 28

The Dist. Civ. Medl. Officer,

Sir, With reference to the correspondence ending with your letter No 165-40-213/43 Dy 26-4-44 in the matter of granting exemption from payment of taxes & tolls & of action to be taken by the Civ. Medl. Officer, Mr. Balaroy Devaraj Urs, I am directed to state that the Govt regret that the request cannot be sanctioned, as it is not justified in view of the reasons stated

Sd/-
for Secy to Govt
Home Dept
24/6.

VNG
06/6

30

BANGALORE CITY MUNICIPALITY

No A4-C 948/43.

Encl one

MUNICIPAL OFFICES

Bangalore 16th Aug. 1944

1273/L

FROM

P SURYANARAYANA SETTI ESQ BA LLB
MUNICIPAL COMMISSIONER
Bangalore City

To

C Narayanaswamy Naidu, Esq., B A B L,
Legal Remembrancer and
Secretary to Government,
Law Department,
Bangalore

L S G BRANCH

SIR

With reference to your letter No 10435/M1 dated 5-4-1944, in the matter of granting exemption to the family of r Delavoy Devaraja Urs, from the payment of municipal taxes, etc , I have the honour to state that there are no instances wherein such exemption has been granted in favour of particular individuals in this municipality, except in the case of mutt Swamigalu and State guests as noted in the enclosed list

I have the honour to be,
Sir,
Your most obedient servant

P Suryanarayana Setti
Municipal Commissioner

sl.

List 31

-4-

1 Notification No T 3131/R T 20-39-57 dated 18-4-1940 exempting from payment of taxes and tolls on Motor Vehicles belonging to His Highness the Prince of Hyderabad

2 No 2578 dated 20-4-1940 from the Law Secretary exempting the cars belonging to His Highness the Maharaja of Keonjhar from taxes and tolls

3 No T 3566/R T 20-39-65 dated 29-5-1940 exempting from payment of all taxes and tolls on the Motor vehicles belonging to His Highness the Maharaja of Cooch-Behar

4 P C 621/39-40 dated 28-5-1940 from the Huzrai Commissioner exempting from payment of tolls at the toll gates on Motor car belonging to the Sri Swamigaluvaru of Sri Nidumanidi Mutt, Gulur

5 No T 3646/R T 20-39-69 dated 3-6-1940 from the Law Secretary to Government exempting the Motor Vehicles accompanying Her Highness Dowager Maharani Chinnabai Sahib of Baroda from payment of all taxes and tolls during the period of Her Highness's stay in Mysore State

6 Order No L 149-50/Mly 85-39-101 dated 4-7-1940 from the Secretary, Law Department exempting from payment of octroi on all articles imported into the Bangalore City Municipal limits either by rail or post on bx behalf of Her Highness the Maharani Chinnabai Sahib, Gaekwar C I of Baroda during her stay in Bangalore

Sd C Annadanappa
Superintendent,
Octroi & Toll Bangalore City

"Copy"

P [illegible]
Municipal Commissioner